

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

<b>(1) DEPARTMENT</b> Planning and Building	<b>(2) MEETING DATE</b> 12/3/2013	<b>(3) CONTACT/PHONE</b> Mike Wulkan, Supervising Planner/(805)781-5608 Michael Conger, Planner III/(805) 781-5136	
<b>(4) SUBJECT</b> Hearing to consider a request by the County of San Luis Obispo to amend the Safety Element of the County General Plan to incorporate by reference the adopted San Luis Obispo County Local Hazard Mitigation Plan and to amend Titles 19 (Building and Construction Ordinance), 22 (Land Use Ordinance), and 23 (Coastal Zone Land Use Ordinance) of the County Code in order to (1) implement the Post Construction Requirements adopted by the Central Coast Regional Water Quality Control Board; and (2) adopt revisions to the grading ordinance within the Coastal Zone. All Districts.			
<b>(5) RECOMMENDED ACTION</b> That the Board of Supervisors: <ol style="list-style-type: none"> <li>1. Hold the public hearing on the amendments recommended for approval by the Planning Commission as set forth in the attached Exhibits and staff reports.</li> <li>2. Take final action on the amendments heard today by adopting and instructing the Chairperson to sign the attached resolution and ordinances.</li> </ol>			
<b>(6) FUNDING SOURCE(S)</b> Current Budget	<b>(7) CURRENT YEAR FINANCIAL IMPACT</b> \$0.00	<b>(8) ANNUAL FINANCIAL IMPACT</b> \$0.00	<b>(9) BUDGETED?</b> Yes
<b>(10) AGENDA PLACEMENT</b> <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 minutes</u> ) <input type="checkbox"/> Board Business (Time Est. <u>    </u> )			
<b>(11) EXECUTED DOCUMENTS</b> <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
<b>(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)</b> N/A		<b>(13) BUDGET ADJUSTMENT REQUIRED?</b> BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
<b>(14) LOCATION MAP</b> N/A	<b>(15) BUSINESS IMPACT STATEMENT?</b> No	<b>(16) AGENDA ITEM HISTORY</b> <input checked="" type="checkbox"/> N/A    Date: <u>                    </u>	
<b>(17) ADMINISTRATIVE OFFICE REVIEW</b> Lisa M. Howe			
<b>(18) SUPERVISOR DISTRICT(S)</b> All Districts			

## County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Mike Wulkan, Supervising Planner  
Michael Conger, Planner III/(805) 781-5136

VIA: Kami Griffin, Acting Director

DATE: 12/3/2013

SUBJECT: Hearing to consider a request by the County of San Luis Obispo to amend the Safety Element of the County General Plan to incorporate by reference the adopted San Luis Obispo County Local Hazard Mitigation Plan and to amend Titles 19 (Building and Construction Ordinance), 22 (Land Use Ordinance), and 23 (Coastal Zone Land Use Ordinance) of the County Code in order to (1) implement the Post Construction Requirements adopted by the Central Coast Regional Water Quality Control Board; and (2) adopt revisions to the grading ordinance within the Coastal Zone. All Districts.

### **RECOMMENDATION**

That the Board of Supervisors:

1. Hold the public hearing on the amendments recommended for approval by the Planning Commission as set forth in the attached Exhibits and staff reports.
2. Take final action on the amendments heard today by adopting and instructing the Chairperson to sign the attached resolution and ordinances.

### **DISCUSSION**

At today's meeting, your Board will hold a public hearing on the following amendments recommended for approval by the Planning Commission and take final action through adoption of a resolution.

The Planning Commission is transmitting the record of its meeting of October 24, 2013 to your Board for the attached proposed amendment to the Safety Element of the General Plan as follows:

Item 1. A request by the County of San Luis Obispo to amend the Safety Element of the County General Plan to incorporate by reference the adopted San Luis Obispo County Local Hazard Mitigation Plan. The Local Hazard Mitigation Plan presents a comprehensive risk assessment of natural hazards and suggests possible mitigation measures to reduce the effects of the potential hazards. The Local Hazard Mitigation Plan was developed by the County in accordance with the federal Disaster Mitigation Act of 2000, adopted by the Board of Supervisors and approved by the Federal Emergency Management Agency. State legislation requires the County to adopt a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 as part of the General Plan Safety Element in order to qualify for the maximum amount of disaster aid through the California Disaster Assistance Act. This proposal does not involve any substantive changes to the goals, policies, programs, or maps of the Safety Element. County File Number: LRP2012-00005. Supervisorial Districts: All

The Planning Commission considered the above amendment to the Safety Element of the General Plan and took the following action to recommend approval of the proposed amendment:

*On the motion of Commissioner Meyer, seconded by Commissioner Topping and carried unanimously, recommending to the Board of Supervisors approval of this General Plan text amendment as shown in Exhibit LRP2012-00005:B based on Findings A through D.*

Item 2. A request by the County of San Luis Obispo for an amendment to Titles 19 (Building and Construction Ordinance), 22 (Land Use Ordinance), and 23 (Coastal Zone Land Use Ordinance) of the County Code in order to (1) implement the Post Construction Requirements adopted by the Central Coast Regional Water Quality Control Board; and (2) adopt revisions to the grading ordinance within the Coastal Zone. This ordinance will implement requirements that are imposed by mandate of the Regional Water Quality Control Board in order to comply with the Phase-II National Pollutant Discharge Elimination System (NPDES) permit for municipal stormwater discharges. This project affects unincorporated portions of the County. County File Number: LRP2012-0009 Supervisorial District: All

The Planning Commission considered the above amendments to Title 19, Title 22 and Title 23 of the San Luis Obispo County Code and took the following action to recommend approval of the proposed amendment:

*On the motion of Commissioner Christianson, seconded by Commissioner Topping, and carried unanimously, with Commissioner Irving absent, recommending to the Board of Supervisors approval of the ordinance text amendments as shown in Exhibits LRP2012-00009:B (Title 22 amendments), LRP2012-00009:C (Title 19 amendments) and LRP2012-00009:D (Title 23 amendments) based on Findings in Exhibit LRP2012-00009:A.*

### **Background – Item 1 – Safety Element**

Assembly Bill 2140 requires the County to adopt a local hazard mitigation plan (LHMP) in accordance with the federal Disaster Mitigation Act of 2000 as part of the General Plan Safety Element in order to qualify for additional funding through the California Disaster Assistance Act. By referencing the LHMP in the Safety Element, this amendment will enable the County to qualify for the maximum amount of disaster aid in the event of a disaster such as an earthquake.

The LHMP, last adopted by the Board of Supervisors in August 2011, includes a comprehensive risk assessment of natural hazards and suggests possible mitigation measures to reduce the effects of potential hazards such as wildfires, floods, earthquakes, and landslides. The LHMP was prepared in accordance with the federal Disaster Mitigation Act of 2000 and approved by the Federal Emergency Management Agency (FEMA).

The County is currently in the process of updating the LHMP, including tying it and the Safety Element together to be in compliance with AB 2140. This effort is being led by the County Office of Emergency Services with the assistance the consulting firm, Dewberry. The updated LHMP is expected to be considered by your Board on December 17, 2013.

In the near future, the Planning and Building Department plans to start a more comprehensive update to the Safety Element. At that time, the LHMP can be more fully integrated into the Safety Element. In the meantime, this request to incorporate the LHMP by reference into the Safety Element is needed so that the County is eligible for up to 100 percent of the state disaster fund reimbursements in those situations in which they are made available. Should the County be in a situation in which the full disaster funding is made available and we are not in compliance with the AB 2140 provision to link the LHMP with the Safety Element, we could potentially lose millions of dollars.

## Background – Item 2 – Stormwater Amendments

The ordinance package for stormwater amendments will serve two functions:

- *Stormwater Management* – Adoption of regulations requiring new development projects to comply with the Post Construction Requirements (PCRs) established by the Regional Water Quality Control Board (RWQCB). This includes amendments to Titles 19, 22, and 23.
- *Coastal Zone Grading* – Re-adoption of amendments to Chapter 5 of Title 23 (Coastal Zone Land Use Ordinance), concerning grading within the Coastal Zone.

### *Stormwater Management*

As a municipal discharger, the County is subject to regulation under the National Pollutant Discharge Elimination System (NPDES). In response to an updated NPDES General Permit for Municipal Separate Storm Sewer Systems (MS4s), the Central Coast Regional Water Quality Control Board (RWQCB) adopted Post-Construction Requirements (PCRs) on July 12, 2013. The PCRs are a slightly modified version of the original PCRs adopted in September 2012 after a two year collaborative process.

This ordinance package, which is required by the RWQCB Order, would create a process for the County to review a Stormwater Control Plan (SWCP) for compliance with the PCRs. This means that issues concerning site hydrology and drainage may need to be addressed much earlier along in the project review process – preferably before project design. In most cases, it appears the assistance of a Civil Engineer and/or Geotechnical Engineer may be needed in order to sufficiently demonstrate compliance with PCRs.

In certain circumstances *structural* stormwater control measures (SCMs) may be required. Examples of structural SCMs include retention basins, subterranean infiltration basins, open vegetated swales, etc. In these cases, a maintenance agreement is required, which would include a provision for annual certification that the SCMs have been properly maintained and are functional. The County is then required to compile this data and provide an annual report to the RWQCB.

In summary, the ordinance contains the following provisions:

- **The applicant must submit a Stormwater Control Plan.** As part of the submittal for a new subdivision, land use permit, grading permit, or construction permit, the applicant must provide a Stormwater Control Plan. This plan will demonstrate compliance with Post-Construction Requirements.
- **The Stormwater Control Plan is reviewed for compliance with the Central Coast Post-Construction Requirements.** The County reviews the plans to ensure compliance with the Post-Construction Requirements. Depending on the amount of impervious surfacing proposed, the following performance requirements can be triggered:

Impervious Surface Area	Performance Standard			
	Site Design and Runoff Reduction	Water Quality	Runoff Retention	Peak Management
≥ 2,500 sq ft	•			
≥ 5,000 sq ft (except SFR <sup>1</sup> )	•	•		
≥ 15,000 sq ft	•	•	•	
≥ 22,500 sq ft	•	•	•	•

In most cases, the applicant will require the assistance of a Civil Engineer and/or Geotechnical Engineer in order to supply the necessary information.

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<sup>1</sup> SFR = Single Family Residence

- **A maintenance agreement is required for structural stormwater devices.** Some projects will require structural stormwater devices – e.g. retention basins, constructed wetlands, bioswales, filter strips, etc. Unless adequately maintained over time, these structures may not function as designed. In order to ensure the long-term functionality of these devices the applicant will be required to enter into a maintenance agreement. This maintenance agreement will include annual reporting and certification to the County. The County, in turn, must report on compliance to the Regional Water Quality Control Board.

Under the proposed RWQCB Order, this ordinance would be required to go into effect as of **March 6, 2014.**

#### *Coastal Zone Grading Ordinance*

In 2010, the Board of Supervisors adopted comprehensive amendments to both the inland and Coastal Zone grading ordinances. These amendments were intended to achieve compliance with construction-phase discharge requirements identified in the County's 2007 Stormwater Management Program (SWMP). The ordinance has been in effect in the inland portion of the County since May 2010.

To take effect in the Coastal Zone, the County's Local Coastal Program (LCP) requires amendment. The Coastal Commission considered the grading ordinance amendment in August 2012. At that time, the Coastal Commission denied the County's proposed amendment, and adopted a revised amendment with 35 modifications. The Board of Supervisors reviewed and considered the Coastal Commission's modifications on January 29, 2013, and chose not to certify the Local Coastal Program Amendment. This choice largely reflected concerns about modifications to the Coastal Development Permit exemption for agricultural activities.

The Coastal Zone Grading Ordinance amendments now being proposed reflect the Board of Supervisors' original 2010 adoption, along with modifications made by the Coastal Commission. The topic where the County and Coastal Commission have been unable to reach an agreement is in regards to agricultural grading activities. As a result, the current proposal no longer includes modifications to the current agricultural grading exemption in the Coastal Zone. All other Coastal Commission modifications have been incorporated into the ordinance.

### **OTHER AGENCY INVOLVEMENT/IMPACT**

#### Item 1 – Safety Element

The Planning and Building Department has worked closely with the County Office of Emergency Services to coordinate the LHMP update with the General Plan Safety Element. Other agencies involved in the LHMP are the Public Works Department, CAL FIRE, the Agriculture Department, the Health Agency, the San Luis Obispo Council of Governments, and the San Luis Obispo Air Pollution Control District. These agencies are members of the LHMP Planning Group. Their focus is on the LHMP rather than this proposed amendment to the General Plan Safety Element. The Office of Emergency Services supports this proposal and has been involved in the drafting of the proposed amendment.

#### Item 2 – Stormwater Amendments

The stormwater amendments have been generated as the result of an order from the Central Coast RWQCB. The RWQCB order was developed after a lengthy collaborative process (dubbed the "Joint Effort"), which involved a wide range of stakeholders. RWQCB reviewed and commented on the Public Review Draft of the ordinance. The Department of Public Works is charged with administering the County's SWMP and has also been involved in the development of the ordinance. Staff has also been coordinating with Coastal Commission staff regarding the language in the Coastal Zone grading ordinance, but has not yet been provided with feedback.

## **FINANCIAL CONSIDERATIONS**

### **Item 1 – Safety Element**

By linking the Safety Element of the County General Plan with the LHMP in compliance with AB 2140, the County would be eligible for the full amount of disaster aid under the California Disaster Assistance Act if the full disaster funding is made available in the event of a disaster. This could amount to millions of dollars in the event of a serious natural disaster.

County initiated amendments are processed using funds in the current Planning and Building Department budget.

### **Item 2 – Stormwater Amendments**

The County is regulated by as a municipal discharger by the RWQCB. Adopting the ordinance package would ensure that the County complies with the RWQCB order issued on July 12, 2013. By complying with the order, we will maintain in compliance with the conditions of our NPDES permit. Failure to maintain compliance with permit requirements can result in large daily fines under the Clean Water Act.

The review and approval of Stormwater Control Plans will occur as part of the standard construction permit and land use permit process. Fees are established in the County's Fee Schedule to fund associated staff work.

## **RESULTS**

Final approval of these amendments will enable them to become effective 30 days after today's date on January 2, 2014.

### **Item 1 – Safety Element**

This amendment will amend the Safety Element of the County General Plan to incorporate by reference the adopted LHMP in compliance with AB 2140, thereby enabling the County to qualify for the maximum amount of disaster aid in the event of a disaster such as an earthquake. This could amount to a substantial amount of money in the event of a serious disaster.

### **Item 2 – Stormwater Amendments**

This ordinance package will amend Titles 19, 22, and 23 to impose post-construction stormwater management requirements on new development projects. Additionally, this ordinance package will re-adopt amendments to the Coastal Zone grading ordinance to address construction-phase discharges. Both actions are required in order for the County to maintain compliance with its Stormwater Management Program (SWMP).

## **ATTACHMENTS**

### **Attachment 1 – Board Resolution for Adoption**

- 1.1 Exhibit LRP 2012-00005:B (Safety Element)
- 1.2 Exhibit 2012-00009:B (Title 22)
- 1.3 Exhibit LRP2012-00009:C (Title 19)
- 1.4 Exhibit LRP2012-00009:D (Title 23)

### **Item 1 – Safety Element**

Attachment A1 - Exhibit LRP2012-00005:B, Amendment to the Safety Element of the County General Plan (clean)

Attachment A2 - Exhibit LRP2012-00005:B, Amendment to the Safety Element of the County General Plan (underlined)

Attachment A3 - Planning Commission Resolution with findings

Attachment A4 - Planning Commission Draft Minutes of October 24, 2013

Attachment A5 - October 24, 2013 Planning Commission Staff Report

**Item 2 – Stormwater Amendments**

Attachment B1 - Exhibit LRP2012-00009:A Findings

Attachment B2 - Exhibit LRP2012-00009:B (Title 22)

Attachment B3 - Exhibit LRP2012-00009:C (Title 19)

Attachment B4 - Exhibit LRP2012-00009:D (Title 23)

Attachment B5 - Planning Commission Action

Attachment B6 - Planning Commission Minutes

Attachment B7 - Planning Commission Staff Report

Attachment B8 - Post Construction Requirements

Attachment B9 - Strikeout (Title 22)

Attachment B10 - Strikeout (Title 19)

Attachment B11 - Strikeout (Title 23)

Attachment B12 - CZLUO Grading Changes

Attachment B13 - Coastal Commission Changes Not Carried Through

Attachment B14 - Class 8 Exemption